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Introduction

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Introduction

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The decision of the California Supreme Court in August of 1971 in the case of *Serrano v. Priest* has unleashed an unprecedented fury of activity in the area of education finance reform. Advocates of reform in the systems by which states and localities finance public education had in 1969 been given what seemed to be an important setback when the United States Supreme Court refused to use the standard of “educational need” to declare invalid the Illinois system of financing public education. The result in that case, whose plaintiffs had based their claim for relief on the federal equal protection clause, required that a new approach be adopted in the effort to restructure education finance systems.

That new approach had been begun in California in mid-1968, and with the aid of the negative guidance provided by the Supreme Court’s rejection of the “educational need” standard, the attorneys in the case were able to refine their approach to meet the judicial desire for manageable standards. The decision in *Serrano v. Priest* was the result of that effort. In the months since *Serrano* was decided, two other decisions

have reaffirmed this approach to the education finance problem—*Van Dusartz v. Hatfield*, decided by a Minnesota District Court in mid-October, 1971, and *Rodriguez v. San Antonio Independent School District*, decided by a three-judge District Court panel in Texas on December 23. Dozens of similar lawsuits are pending in other jurisdictions around the country, and the number of such suits is still growing.

Of primary importance, the *Rodriguez* decision is most probably appealable directly to the U. S. Supreme Court, because it was decided by a three-judge Federal District Court and because the Court granted an injunction. (On January 8, 1972 the Texas State Board of Education voted unanimously to appeal the case directly to the High Court.) It is therefore likely that within the next twelve to eighteen months the Supreme Court will clarify its position on this latest approach to untangling the problems of financing the nation's public schools.

Whatever the final decision of the Court, however, the *Serrano* principle may have significant impact on areas of American life ranging beyond educational quality and intra-state taxpayer equity. The Nixon administration is reportedly planning to introduce a "value-added" tax to help lessen the reliance of states and localities on the property tax in financing education. This tax, in effect a type of national sales tax, if enacted may mean that a major effect of *Serrano* might be to increase, rather than decrease, regressivity in the overall national tax structure.¹ The basic concept of the tax seems to indicate that only a very high degree of rebating or tax crediting at the lower end of the income spectrum would enable such a value-added tax to be anything other than highly regressive in its effect. In the area of national taxation, therefore, the ultimate impact of the *Serrano* principle may be one not fully anticipated by those who have championed its development.

Another long-range implication of *Serrano* may prove to be more important than the sum total of its effects on educational quality and taxpayer equity. It is at least arguable that if the *Serrano* principle is adopted, much of the "respectable" argument against the erection of low- and moderate-income housing in suburban communities will be robbed of whatever legitimacy it currently possesses. No longer will

suburban communities be able to resist such housing on the grounds that it would bankrupt the municipality because the cost of educating the children who would live in such housing would far exceed the property tax income derived from that housing. Other objections would still remain—the most obvious of such objections being racial prejudice. Both legally and psychologically, however, it will prove much more difficult for suburbanites to maintain such objections without the support of the economic argument which now lends a certain social acceptability to attempts to exclude poor people from the suburbs.

National tax policy and the future of low- and moderate-income housing in the suburbs are but two of a myriad of far-ranging implications which will inevitably develop if the *Serrano* principle gains more widespread adoption in the various states. The articles in this special section on *Serrano* consider both the legal theory of the case and the possible practical outcomes on the state and local level of adoption by the courts of that legal theory.

The editors believe these articles represent the first published in-depth discussion since the decision in *Serrano* of many of the issues raised by the Court in that case. We invite comment from our readers on the broad question of reform of American education finance, as the nation begins to debate important issues which for too long have been left undiscussed.

1. See The New York Times, January 9, 1972, section 12, p. 13. Of course, the specific features of any such value-added tax would determine the precise degree, if any, of such regressivity.

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